

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION

GLENDA J. MAYES,

Plaintiff,

v.

JO ANNE B. BARNHART,
Commissioner of Social Security

Defendant.

Case No. 04-3387-CV-S-ODS

**ORDER AND OPINION REVERSING AND REMANDING CASE
TO COMMISSIONER OF SOCIAL SECURITY FOR RECONSIDERATION
PURSUANT TO SENTENCE FOUR OF 42 U.S.C. § 405(g)**

Pending is Plaintiff's request for review of Commissioner of Social Security's final decision denying her application for disability benefits. The case is reversed and remanded to the Commissioner for reconsideration pursuant to Sentence Four of 42 U.S.C. § 405(g).

The ALJ found none of Plaintiff's physicians had imposed significant limitations due to her mental impairments. After the ALJ issued her decision, Plaintiff submitted a report prepared by Doctor Judith Cain that suggests Plaintiff is significantly limited – or at least, is more limited than found by the ALJ. Dr. Cain's report was filed before the Appeals Council denied review, so the report forms part of the record the Court must review.

The ALJ cannot be faulted for failing to consider Dr. Cain's report: it had not been presented to the ALJ. Nonetheless, because it is part of the record, the Court must examine the ALJ's written order (which stands as the Commissioner's final decision) in light of the report. Having done so, the Court concludes the ALJ's decision is not supported by substantial evidence in the record as a whole. The case must be reversed and remanded for reconsideration. On remand, the Commissioner

shall reconsider the denial, including particularly (1) Plaintiff's claim of severe anxiety and depression and (2) the combined effect Plaintiff's mental and physical limitations.

IT IS SO ORDERED.

DATE: November 7, 2005

/s/ Ortrie D. Smith _____
ORTRIE D. SMITH, JUDGE
UNITED STATES DISTRICT COURT